

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

RECEIVED

DEC 16 1996

Federal Communications Commission  
Office of Secretary

In the Matter of )

)  
Amendment of the Commission's  
Rules To Establish Part 27, the  
Wireless Communications Service  
("WCS") )

) GN Docket No. 96-228

DOCKET FILE COPY ORIGINAL

REPLY COMMENTS OF GTE

GTE Service Corporation on behalf of its telephone and wireless companies ("GTE") hereby submits reply comments in response to the *Notice of Proposed Rulemaking* ("Notice") adopted by the Federal Communications Commission ("FCC" or "Commission") in the above-captioned proceeding.<sup>1</sup> In the *Notice*, the Commission seeks comment on its proposal to allocate the 2305-2320 and 2345-2360 MHz bands to fixed, mobile, radiolocation or Digital Satellite Audio Radio Services ("DARS") on a primary basis for a new Wireless Communications Service ("WCS").

GTE filed comments on December 4, 1996, generally supporting the Commission's proposal to establish WCS rules that provide licensees the flexibility to use the allotted spectrum to serve the public interest in the most technically and economically efficient manner. GTE cautioned, however, that the Commission should be mindful in this proceeding not to confer a competitive advantage on WCS licensees.

---

<sup>1</sup> Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service ("WCS"), *Notice of Proposed Rulemaking*, GN Docket No. 96-228, FCC 96-441 (released November 12, 1996).

No. of Copies rec'd  
List ABCDE

025  
081

In particular, given the Commission's proposal to make WCS spectrum available for commercial mobile radio services ("CMRS"), GTE argued that the FCC should adopt rules for WCS similar to those adopted or under consideration for CMRS providers.<sup>2</sup> GTE also urged the Commission not to license WCS spectrum based on large geographic areas.<sup>3</sup> Rather, GTE supported WCS license areas based on Rand McNally Basic Trading Areas ("BTAs"). GTE notes that a substantial number of parties echoed GTE's comments on these issues.

**I. Discussion**

**A. The FCC Must Consider the Effect WCS Will Have on CMRS Licensees**

In its comments, GTE argued that because the Commission proposes to allow WCS spectrum to be used to provide CMRS-like services, it must be mindful in this proceeding not to confer a competitive advantage on entities electing to provide such services over WCS spectrum. In particular, GTE raised regulatory parity concerns with respect to spectrum aggregation limits. GTE commented that the treatment of WCS licensees with respect to the spectrum cap should be consistent with the Commission's treatment of broadband PCS, cellular, and enhanced SMR licensees. GTE argued that given the Commission's decision to retain a spectrum cap for CMRS licensees, the FCC must subject WCS licensees providing CMRS-like services to the same spectrum aggregation limits in order to maintain regulatory parity.<sup>4</sup> GTE's comments on other

---

<sup>2</sup> GTE Comments at 2-3.

<sup>3</sup> *Id.* at 3-5.

<sup>4</sup> *Id.* at 6-7.

issues such as spectrum disaggregation and partitioning and regulatory status and safeguards were also consistent with the notion of regulatory parity.<sup>5</sup>

A substantial number of other commenters seized upon this issue as well. Sprint, for example, argued that personal communications services (“PCS”) licensees will be competitively disadvantaged if WCS licenses are auctioned in a manner that would likely produce much lower prices per pop than paid by PCS licensees. Sprint, like GTE, argued that Congress has mandated the Commission apply similar regulatory treatment to similar services. Sprint argued, further, that in order to ensure regulatory parity, the Commission must auction WCS spectrum based on small geographic areas, include WCS spectrum in the CMRS spectrum cap, and must apply similar construction and build-out requirements.<sup>6</sup> Similarly, Bell Atlantic NYNEX Mobile (“BANM”) argued that the Commission must adopt rules for WCS that are consistent with the rules imposed on competing service providers. BANM, in particular, argued that WCS should be made subject to Part 20 of the Commission’s Rules -- the part governing the provision of CMRS.<sup>7</sup> Similar concerns were raised by AirTouch Communications, BellSouth Corporation, Florida Cellular RSA Limited Partnership, PrimeCo Personal Communications, and Vanguard Cellular Systems.

Other parties argued that two-way voice CMRS should not be a permitted use for WCS spectrum. The Personal Communications Industry Association (“PCIA”), for

---

<sup>5</sup> *Id.* at 7-9.

<sup>6</sup> Sprint Comments at 8-10.

<sup>7</sup> BANM Comments at 11-13.

example, noted that the CMRS industry has recently undergone a tremendous increase in the number of licensed service providers in each area. PCIA argued that allowing WCS providers to offer CMRS-like services will de-value recently auctioned PCS spectrum and have a detrimental effect on PCS providers' ability to raise capital and ultimately succeed in the marketplace. Accordingly, PCIA urged the Commission to consider dedicating WCS spectrum to high-speed, broadband data services rather than two-way voice mobile services.<sup>8</sup> Similarly, a number of other parties suggested that the Commission consider dedicating WCS spectrum to "new" services such as wireless cable, wireless Internet, wireless telemetry, vehicle location/monitoring, wireless local area network, or intelligent transportation systems.<sup>9</sup>

GTE is also concerned about the effect WCS spectrum allocation will have on existing and future CMRS licensees.<sup>10</sup> As GTE argued in its comments, the best way to minimize the effect that WCS will have on existing CMRS providers is to subject CMRS-like services provided over WCS spectrum to similar rules and regulations. In addition,

---

<sup>8</sup> PCIA Comments at 4-8.

<sup>9</sup> BellSouth Comments at 3; Pocket Communications Comments at 2; SBC Communications Comments at 4.

<sup>10</sup> Given GTE's support for flexible WCS spectrum usage, GTE takes no position with respect to parties' requests that the Commission limit WCS spectrum use exclusively to "new" wireless services. Should the Commission adopt the "new" services proposal, however, nothing should prevent entities from using WCS spectrum to provide telecommunications services to rural areas. In addition, GTE notes that many current CMRS providers already provide these "new" services or plan to in the future. The Commission must ensure that the rules applicable to existing CMRS provider "new" service offerings are similar to those imposed on WCS provider offerings.

prior to adopting any rules for WCS, the Commission should carefully consider the effect such rules will have on competing licensees.

**B. The Majority of Parties Favor Small License Areas**

In its comments, GTE supported licensing WCS spectrum based on Rand McNally Basic Trading Areas ("BTAs"). GTE argued that smaller license areas provide the greatest flexibility for licensees. GTE also argued that any license area larger than BTAs will result in the effective exclusion of sparsely populated, rural areas.<sup>11</sup>

Almost every commenter addressing the issue favored auctioning WCS spectrum based on small geographic areas.<sup>12</sup> Parties favor small geographic license areas because (1) large license areas can act as a barrier to entry, straining financial resources and forcing entrants to acquire a larger area than is often needed;<sup>13</sup> (2) it is easier and more efficient to add additional licenses to build to the needed level than it is to buy big and disaggregate;<sup>14</sup> (3) larger license areas are likely to cost less per pop than licensees paid for PCS licenses, thus exacerbating the regulatory disparity

---

<sup>11</sup> GTE Comments at 3-5.

<sup>12</sup> See, e.g., AirTouch Comments at 6-9; BellSouth Comments at 6-8; CTIA Comments at 12-14; Omnipoint Comments at 8-9; PCIA Comments at 16-18; Pocket Communications Comments at 3-4; PrimeCo Personal Communications Comments at 3; SBC Communications Comments at 4-7.

<sup>13</sup> BellSouth Comments at 7; CTIA Comments at 12; PCIA Comments at 17; SBC Communications Comments at 4-5.

<sup>14</sup> AT&T Wireless Comments at 4; BANM Comments at 3-4; BellSouth Comments at 7; CTIA Comments at 12.

between PCS and WCS;<sup>15</sup> (4) larger license areas increase the potential for spectrum warehousing;<sup>16</sup> (5) smaller license areas improve the chances that rural areas will benefit from new services provided over WCS spectrum;<sup>17</sup> (6) smaller areas further diminish the chances that there will be a high concentration of market participants;<sup>18</sup> (7) smaller areas increase the likelihood for rapid deployment of new services;<sup>19</sup> and (8) smaller areas facilitate the participation of small businesses and designated entities, consistent with the Commission's mandate from Congress.<sup>20</sup>

Parties also discount the Commission's rationale supporting larger (regional or nationwide) WCS license areas. In particular, parties argue that the Commission's vast experience with auctions will enable it to complete smaller area auctioning in time to meet statutory deadlines.<sup>21</sup> Parties also argue that smaller license areas will not deter

---

<sup>15</sup> AirTouch Comments at 7; Florida Cellular RSA Limited Partnership Comments at 2; PCIA Comments at 17; SBC Communications Comments at 5-6.

<sup>16</sup> CTIA Comments at 13; Sprint Comments at 8.

<sup>17</sup> AirTouch Comments at 6; Pocket Communications Comments at 3; Rural Telecommunications Group Comments at 3-7.

<sup>18</sup> CTIA Comments at 14; PrimeCo Personal Communications Comments at 10; Vanguard Cellular Comments at 4.

<sup>19</sup> CTIA Comments at 13; PCIA Comments at 17; Omnipoint Comments at 8; PrimeCo Personal Communications Comments at 10; SBC Communications Comments at 6; Sprint Comments at 7.

<sup>20</sup> AirTouch Comments at 7; AT&T Wireless Comments at 3; BANM Comments at 6-7; BellSouth Comments at 7; CTIA Comments at 14; Pocket Communications Comments at 3; Omnipoint Comments at 8-9; SBC Communications Comments at 6-7; Rural Telecommunications Group Comments at 3-7; Sprint Comments at 7; Vanguard Cellular Comments at 4.

<sup>21</sup> See, e.g., AT&T Wireless Comments at 5-6; BANM Comments at 8.

system interoperability or nationwide roaming.<sup>22</sup> In any event, the overwhelming support for smaller geographic license areas and the reasons given therefor far outweigh any benefits to be gained by licensing WCS on a large area basis.<sup>23</sup>

Commenters are not, however, unanimous in the geographic size the WCS license areas should take. Most parties, citing to the PCS experience, favor either BTAs,<sup>24</sup> Major Trading Areas ("MTAs"),<sup>25</sup> or a combination of both.<sup>26</sup> Still others favor licensing on an Economic Area ("EA") basis<sup>27</sup> or on the basis of Metropolitan and Rural Statistical Areas ("MSAs" and "RSAs") as used in the cellular services.<sup>28</sup> Nonetheless, the comments filed make clear that the Commission must license WCS spectrum based on geographic areas considerably smaller than nationwide or regional areas. The Commission does not have record support to adopt a licensing scheme based on any area larger than MTAs.

GTE favors licensing on a BTA basis. As stated in its comments, GTE believes that BTAs best balance the need to promote economic efficiency, promote ubiquitous

---

<sup>22</sup> See, e.g., BANM Comments at 5.

<sup>23</sup> PCIA Comments at 16.

<sup>24</sup> See, e.g., ADC Telecommunications Comments at 3; BellSouth Comments at 6-8; Omnipoint Comments at 3.

<sup>25</sup> See, e.g., AirTouch Comments at 6-9; AT&T Wireless Comments at 3-5; PrimeCo Personal Communications Comments at 10.

<sup>26</sup> See, e.g., BANM Comments at 3-8; CTIA Comments at 12-15; Sprint Comments at 5-8.

<sup>27</sup> UTC Comments at 4-5; Vanguard Cellular Comments at 5.

<sup>28</sup> Rural Telecommunications Group Comments at 3-7.

service to a larger portion of the country, promote regulatory parity with other CMRS licensees, and meet statutory licensing deadlines.

### **C. Disaggregation and Partitioning**

In its comments, GTE supported the Commission's proposal to permit disaggregation and geographic partitioning of WCS licenses.<sup>29</sup> GTE opposed "any geographic limits to the size of the partitioned areas" and stated that "liberal partitioning and disaggregation rules promote diversity of services and ownership".<sup>30</sup> GTE is pleased to see that the Commission, at its December 13, 1996 Open Meeting, adopted rules that liberalize geographic partitioning and disaggregation rules for broadband PCS licensees similar to GTE's proposal in the instant proceeding. The rule change, which allows the market place to determine the specifics of each arrangement, will give existing licensees and new entrants greater flexibility to determine how much spectrum they need and the geographic areas in which they chose to provide service. GTE urges the Commission to adopt similar rules for the partitioning and disaggregation of WCS spectrum.

## **II. Conclusion**

A substantial majority of commenters agree that given that the Commission proposes to allow WCS spectrum to be used to provide CMRS-like services, it must be mindful in this proceeding not to confer a competitive advantage on entities electing to provide such services over WCS spectrum. In particular, the Commission must apply

---

<sup>29</sup> GTE Comments at 8.

<sup>30</sup> *Id.*



spectrum aggregation limits to CMRS-like services provided over WCS spectrum. The record is also clear that parties support auctioning WCS spectrum based on small geographic areas. GTE and several other commenters support using Rand McNally Basic Trading Areas. Finally, GTE urges the Commission to adopt for WCS licensees similar disaggregation and partitioning rules to those recently adopted for PCS licensees.

Respectfully submitted,

GTE Service Corporation and its telephone  
and wireless companies

By Andre J. Lachance

Andre J. Lachance  
1850 M Street, N.W.  
Suite 1200  
Washington, DC 20036  
(202) 463-5276

December 16, 1996

Their Attorney

### **Certificate of Service**

I, Ann D. Berkowitz, hereby certify that copies of the foregoing "Reply Comments of GTE" have been mailed by first class United States mail, postage prepaid, on December 16, 1996 to all parties on the attached list.

  
Ann D. Berkowitz

Kathleen Q. Abernathy  
AirTouch Communications  
1818 N Street, NW  
Suite 800  
Washington, DC 20036

Veronica M. Ahern  
Nixon, Hargrave, Devans & Doyle  
One Thomas Circle, NW  
Suite 800  
Washington, DC 20005

Michael F. Altschul  
Cellular Telecommunications Industry  
1250 Connecticut Avenue, NW  
Suite 200  
Washington, DC 20036

William B. Barfield  
BellSouth Corporation  
1155 West Peachtree Street  
Suite 1800  
Atlanta, GA 303093610

James H. Barker  
Latham & Watkins  
1001 Pennsylvania Avenue, NW  
Suite 1300  
Washington, DC 20004

Henry L. Baumann  
National Association of Broadcasters  
1771 N Street, NW  
Washington, DC 20036

Caressa D. Bennet  
Bennet & Bennet  
1831 Ontario Place, NW  
Suite 200  
Washington, DC 20009

Paul C. Besozzi  
Besozzi & Gavin  
1901 L Street, NW  
Suite 200  
Washington, DC 20036

Wayne V. Black  
Keller & Heckman  
1001 G Street, NW  
Suite 500 West  
Washington, DC 20036

David F. Brown  
SBC Communications, Inc.  
175 East Houston  
Room 1254  
San Antonio, TX 78205

Jonanath M. Chambers  
Sprint Spectrum  
1801 K Street, NW  
Suite M-112  
Washington, DC 20036

Lynn R. Charytan  
Wilmer Cutler & Pickering  
2445 M Street, NW  
Washington, DC 20037

Frederick J. Day  
Industrial Telecommunications Association  
1110 North Glebe Road  
Suite 500  
Arlington, VA 222015720

David G. Frolio  
BellSouth Corporation  
1133 21st Street, NW  
Washington, DC 20036

Margaret E. Garber  
Pacific Telesis Group  
1275 Pennsylvania Avenue, NW  
Washington, DC 20004

Henry Geller  
The Markle Foundation  
1750 K Street, NW  
Suite 800  
Washington, DC 20006

Mark Golden  
Personal Telecommunications Industry  
Association  
1019 19th Street, NW  
Suite 1100  
Washington, DC 20036

Eliot J. Greenwald  
Fisher Wayland Cooper & Leader  
1255 23rd Street, NW  
Suite 800  
Washington, DC 20037

Robert M. Gurss  
Wilkes, Artis, Hedrick & Lane  
1666 K Street, NW  
Suite 1100  
Washington, DC 20037

Robert A. Hart IV  
21st Century Telesis, Inc.  
P.O. Box 66436  
Baton Rouge, LA 70896

David L. Hill  
O'Connor & Hannan  
1919 Pennsylvania Avenue, NW  
Suite 800  
Washington, DC 20006

Scott C. Hillard  
Cook Inlet Communications, Inc.  
1966 13th Street  
Suite 280  
Boulder, CO 80302

Christopher D. Imlay  
Booth, Freret & Imlay  
1233 20th Street, NW  
Suite 204  
Washington, DC 20036

Bruce D. Jacobs  
Fisher Wayland Cooper Leader & Zaragoza  
2001 Pennsylvania Avenue, NW  
Suite 400  
Washington, DC 20006

William K. Keane  
Aerospace & Flight Test  
1801 K Street, NW  
Suite 400K  
Washington, DC 20006

Thomas J. Keller  
Verner, Liipfert, Bernhard, McPherson &  
Hand  
901 15th Street, NW  
Suite 700  
Washington, DC 20005

Edwin N. Lavergne  
Ginsberg, Feldman and Bress, Chartered  
1250 Connecticut Avenue, NW  
Washington, DC 20036

Lon C. Levin  
AMSC Subsidiary, Inc.  
10802 Park Ridge Boulevard  
Reston, VA 22091

Cathleen A. Massey  
AT&T Wireless Services, Inc.  
1150 Connecticut Avenue, NW  
Suite 401  
Washington, DC 20036

Lucille M. Mates  
Pacific Bell & Nevada Bell  
140 New Montgomery Street  
Room 1523  
San Francisco, CA 94105

david J. McClure  
Multipoint Networks  
19 Davis Drive  
Belmont, CA 94002

Robert J. Miller  
Gardere & Wynne  
1601 Elm Street  
Suite 3000  
Dallas, TX 75201

David Alan Nall  
Squire Sanders & Dempsey  
1201 Pennsylvania Avenue, NW  
P.O. Box 407  
Washington, DC 20044

David J. Neff  
ADC Telecommunications, Inc.  
375 Valley Brook Road  
McMurray, PA 15317

Stuart E. Overby  
Motorola, Inc.  
1350 I Street, NW  
Suite 400  
Washington, DC 20005

Joe Peck  
Consumer Electronics Manufacturers  
Association  
2500 Wilson Boulevard  
Arlington, VA 22201

Tina M. Pidgeon  
Drinker Biddle & Reath  
901 15th Street, NW  
Suite 900  
Washington, DC 20005

Glenn S. Rabin  
ALLTEL Mobile Communications, Inc.  
655 15th Street, NW  
Suite 220  
Washington, DC 20005

Leonard Robert Raish  
Fletcher, Heald & Hildreth  
1300 North 17th Street  
Eleventh Floor  
Rosslyn, VA 22209

Stephen R. Rosen  
Lucent Technologies, Inc.  
475 South Street  
Morristown, NJ 07962

William L. Roughton, Jr.  
PrimeCo Personal Communications  
1133 20th Street, NW  
Suite 850  
Washington, DC 20036

Eric Schimmel  
Telecommunications Industry Association  
2300 Wilson Boulevard  
Suite 300  
Arlington, VA 22201

Eric Schmidt  
Sun Microsystems, Inc.  
2350 Garcia Avenue  
UMTV29-Lobby  
Mountain View, CA 94043

John T. Scott, III  
Crowell & Moring  
1001 Pennsylvania Avenue, NW  
Washington, DC 20004

R. Michael Senkowski  
Wiley Rein & Fielding  
1776 K Street, NW  
Washington, DC 20006

Jeffrey L. Sheldon  
UTC  
1140 Connecticut Avenue, NW  
Suite 1140  
Washington, DC 20036

John H. Sullivan  
American Water Works Association  
1401 New York Avenue, NW  
Suite 640  
Washington, DC 20005

Howard J. Symons  
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo  
701 Pennsylvania Avenue, NW  
Suite 900  
Washington, DC 200042608

Leslie A. Taylor  
Leslie Taylor Associates  
6800 Carlynn Court  
Bethesda, MD 20817

Cheryl A. Tritt  
Morrison & Foerster  
2000 Pennsylvania Avenue, NW  
Suite 5500  
Washington, DC 20005

Louise L.M. Tucker  
Bell Communications Research, Inc.  
2101 L Street, NW  
Suite 600  
Washington, DC 20037

George Y. Wheeler  
Koteen & Naftalin  
1150 Connecticut Avenue, NW  
Washington, DC 20036

John Windhausen, Jr.  
Competitive Policy Institute  
1156 15th Street, NW  
Suite 310  
Washington, DC 20005

Joe B. Wyatt  
Vanderbilt University  
211 Kirkland Hall  
Nashville, TN 37240